

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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| DOVER TEACHERS' UNION | : | |
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| Complainant | : | |
| | : | |
| and | : | CASE NO. T-0305:1 |
| | : | |
| DOVER EDUCATION ASSOCIATION | : | DECISION NO. 780053 |
| | : | |
| Respondent | : | |
| | : | |

APPEARANCES

Representing the Dover Teachers' Union:

Gary Roberti, AFT
Charles Vaughn, President, DTU

Representing the Dover Education Association:

Anne Richmond, Esquire
David Smith, UniServ Director

Representing the School Board:

Bernard Ryder, Supt.
Douglas C. Gray, Attorney
William McCann, Chairman, School Board

BACKGROUND

On September 21, 1978 a challenge election was conducted, the representative election between the Dover Teachers' Union (challenger) and the Dover Education Association (incumbent). The results ended in a tie vote 116 to 116. PELRB on September 26, 1978 ruled that the challenger DTU did not receive 50% plus 1 vote to gain a majority and therefore the incumbent DEA remained the certified bargaining representative.

On September 26, 1978, the DTU, through its representative, Kenneth E. Moulton, President of the N. H. State Federation of Teachers, filed unfair labor practice complaints alleging that the outcome of the September 21st election was affected by continuous interference on the part of the Dover Board of Education and its agents.

The Charges were as follows:

1. "That Dover School Committee chief negotiator William H. McCann, Jr. issued a statement to several newspapers in the Dover area; stating that any attempt by either organization (DTU or DEA) to reopen selected articles of the recently negotiated contract would mean reopening the entire agreement beginning with salaries and economic benefits. This release, less than one week before the ballots were counted, adversely affected DTU's chances in the representation election; as the DEA

campaign was based on the propaganda stating that the DTU would reopen negotiations and Dover Teachers would lose their recently negotiated salary increase."

2. "On September 21, the following memo, from Mr. Ryder, Superintendent of Dover Schools, was placed in each teacher's box, as well as being read over the intercom in each Dover School:

Mr. Joseph L. Lamarca, III, NHEA Negotiator and Mr. Ryder have reached an agreement relative to the sick leave language in the Agreement between the Dover School Committee and the Dover Education Association.

Effective immediately absences due to illness of three or more consecutive days shall only demand a doctor's certificate when the building principal specifically requests it."

3. "Mr. Ryder, representative of the Dover Board of Education, at the polling area, on a number of occasions electioneered while the balloting was taking place."

Hearing on the charges was conducted at the Board's offices on November 8, 1978 and the Board allowed the parties ten days to submit post-hearing briefs if they so desired.

FINDINGS OF FACT

Charge No. 3 of the DTU's complaint alleged that Mr. Ryder, representative of the Dover Board of Education, electioneered at the polling area on a number of occasions while the balloting was taking place. As objections were not raised at the polling area with the representative of the Board on September 21st in accordance with PELRB Rules and Regulations, Section 3.8 (b), no evidence was allowed in support of the allegation and both parties agreed that no complaint was made during the conduct of the election to the responsible election official. Therefore, the Board dismissed this charge as being untimely.

Charge No. 1 with respect to the releases allegedly made to the news media by William H. McCann, Chief Negotiator, the Board reviewed in detail the news clipping submitted in evidence and the oral testimony of witnesses and concluded that the news releases did not favor either the DTU or the DEA and constituted an impartial statement of facts as they existed at the time. One must bear in mind that negotiations between DEA and Dover School Board had been going on prior to the challenge election. The Board finds no unfair labor practice on behalf of the Dover School Board by its representative, William McCann in the press comments.

Charge No. 2 evidence indicated that Mr. Ryder, Superintendent of Dover Schools did on September 21, the day of the election, cause to be read over the intercom and have inserted in each teacher's mail box a copy of the following statement:

"Mr. Joseph L. Lamarca, III, NHEA Negotiator and Mr. Ryder have reached an agreement relative to the sick leave language in the Agreement between the Dover School Committee and the Dover Education Association.

Effective immediately absences due to illness of three or more consecutive days shall only demand a doctor's certificate when the building principal specifically requests it."

It is the DTU position that this move on the part of Mr. Ryder was made to influence the outcome of the election, this position might have merit on the surface but beneath the surface are the facts and the evidence that negotiations between DEA and Dover School Board had been ongoing for an extended period of time and were at the point of being concluded for presentation to the Dover School Board for approval. The announcement took no position with regard to the election but did explain accomplishments in negotiations. The Board finds the Superintendent Ryder's action in the matter does not meet the test of a prohibited practice under RSA 273-A:5 (a) and (b) and therefore dismisses this charge against the Dover School Board.

ORDER AND DECISION

After reviewing all the written and oral testimony presented, the Board finds no unfair labor practice by the Dover School Board and/or its agents.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 17th day of January, 1979

Members Richard H. Cummings and Joseph B. Moriarty also present and voting.
All concurred. Also present, Evelyn C. LeBrun, Board Clerk.